

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2378 - SB 2240

January 23, 2012

SUMMARY OF BILL: Defines “obligation” and “material” and redefines “claim” as they relate to the Tennessee Medicaid False Claims Act. Expands violations of the Medicaid False Claims Act to include knowingly presenting a fraudulent claim, knowingly making or using a false or fraudulent record, knowingly making a false record or statement material to an obligation, or knowingly concealing, avoiding, or decreasing an obligation to pay or transmit money to the state. Authorizes the adjustment of a civil penalty, between \$5,000 and \$25,000, by the Federal Civil Penalties Inflation Adjustment Act of 1990. Requires, unless opposed by the state, the court to dismiss an action or claim if the same allegations or transactions as alleged in the action or claim are publicly disclosed in a criminal, civil, or administrative hearing in which the state is a party.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – Not Significant

Other Fiscal Impact – Prevents the recurring loss of approximately \$4,766,700 in state revenue from recovered false claims.

Assumptions:

- According to the Bureau of TennCare, the proposed changes update and align state law with federal regulations.
- Currently, the state must return the federal portion of any funds collected through false claims. The state may keep an additional 10 percent of the funds if the state collection efforts meet federal requirements. The state is retaining the additional 10 percent.
- The amount collected varies each year. Over the past three years, TennCare has recovered approximately \$143,000,000 in false claims from providers. This averages \$47,666,700 per year in recovery.
- The FY12-13 federal match rate is 66.188 percent and the state share is 33.812 percent. If the state were to retain the enhanced rate, the state’s share would be 43.812 percent.
- The state’s enhanced share of the \$47,666,700 average would be \$20,883,735 (\$47,666,700 x 43.812%).
- If the state did not meet the federal regulations and were not able to retain the enhanced share, the state’s share would be \$16,117,065 (\$47,666,700 x 33.812%).
- The difference in the enhanced share is \$4,766,670 (\$20,883,735 - \$16,117,065).

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- According to the Tennessee Bureau of Investigation (TBI), the provisions of the bill will not have a significant impact on the number of false claims cases. Any costs incurred by the Office of Attorney General and the TBI will not be significant and can be accommodated within existing resources without an increased appropriation or reduced reversion.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/kml